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ABSTRACT

This newsletter, published six times a year by an independent group of psychologists and students unrelated to any legal agency, is designed to bring relevant social science information to the attention of the practioner in the legal, judicial, and correctional fields. Focus in this issue is on the jury. Research findings, reviews, analyses, and opinions are presented. Two articles on jury selection are included: Social Psychologists in Action for the Defense and Can Personality and Attitude Testing Help? (SHM)

SOCIAL ACTION & THE LAW

CENTER FOR RESPONSIVE PSYCHOLOGY

NEWSLETTER

THE JURY

1, NO. 1 March, 1973 B'KLYN, N.Y.

THE CENTER FOR RESPONSIVE PSYCHOLOGY IS AN ORGANIZATION OF PROFESSIONAL PSYCHOLOGISTS AND STUDENTS DEDICATED TO CONSTRUCTIVE SOCIAL CHANGE. THE CENTER'S ACTIVITY INCLUDES RESEARCH, PLACEMENT OF STUDENT VOLUNTEERS IN COMMUNITY AGENCIES, SPONSORSHIP OF SPECIAL COURSES AND THE DISSEMINATION OF SOCIAL SCIENCE INFORMATION IN A FORM USEFUL TO THE COMMUNITY. ONE OF OUR PRINCIPAL AREAS OF CONCERN IS IN THE ROLE OF SOCIAL SCIENCE IN THE LEGAL AND JUDICIAL SYSTEMS IN THE UNITED STATES.

EDITORIAL

SOCIAL ACTION AND THE LAW is a newsletter designed to bring relevant social science information to the attention of the practicioner in the legal, judicial and correctional fields. We will endeavor to communicate recent research findings in clear, non-technical language in order to aid the practicioner in putting social science to work. Each issue is devoted to a theme around which research findings, reviews, analyses and opinions are presented. You can expect to find our opinions expressed, especially in our featured "Proposals for Action and Change." Our opinions are strictly our own - we are an independent group of psychologists and students unrelated to any legal agency.

The newsletter has been designed to serve a catalytic function in the social science-legal area. We need your help, your feedback, your opinions and your writings to review. Letters to the editor will be printed if short and not repititious. We are planning several theme issues including EVIDENCE (polygraph, hypnosis, voice-prints, etc.), SOCIAL SCIENTISTS AS EXPERT WITNESSES, DETERRENCE, and others. We wish to be timely and topical and won't hesitate to switch themes as events dictate. We welcome your suggestions and even your participation as a guest editor. Our ideal is to give social science away to the user. Please let us know what you want and if you want it.

For our first issue we have focused on THE JURY as a theme. A great deal of social science research has been done on groups making decisions, but only recently has research been aimed at real jurors in real life settings. For the trial attorney, some of the recent research and efforts towards change will have a significant impact on the future role of juries.

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Robert Buckhout
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REVIEWS

Rosenblatt, Julia C., "Should the size of the jury in criminal cases be reuced to six? An examination of psychological evidence", The Prosecutor: Journal of the National District Attorney's Association, 1972, Vol. 8 No.4, 309-314

Prof. Rosenblatt (psychologist and wife of a District Attorney) argues for the six person jury in this article which combines a good legal review with a broad analysis of social psychological research on groups. Despite thousands of experiments on groups, social scientists to date have not experimentally compared 6 vs 12 persons in reaching juror-like decisions in a real world setting. Prof. Rosenblatt is against the lone, individualistic ("hanging") juror or the faction of jurors who prevent concensus in the large jury. In light of the fact that the consensus is for conviction in 90% of criminal jury trials, the author is effectively selecting her evidence to support the possibility for more consensus - hence more convictions - in the six person jury.

The potential efficiency in selection time and cases - unsupported by evidence - is cited as a major factor in the Williams vs. Florida, (399, U.S. 78 C 1970) decision which opened the doors for smaller juries. We agree with the author that more specific research is needed in a real world context, but the drive toward efficiency could become another source of injustice. ■

Simon, Rita James, The Jury and the Defense of Insanity, Toronto: Little, Brown and Company, 1967, 269 pp.
- Ronnie Solomon

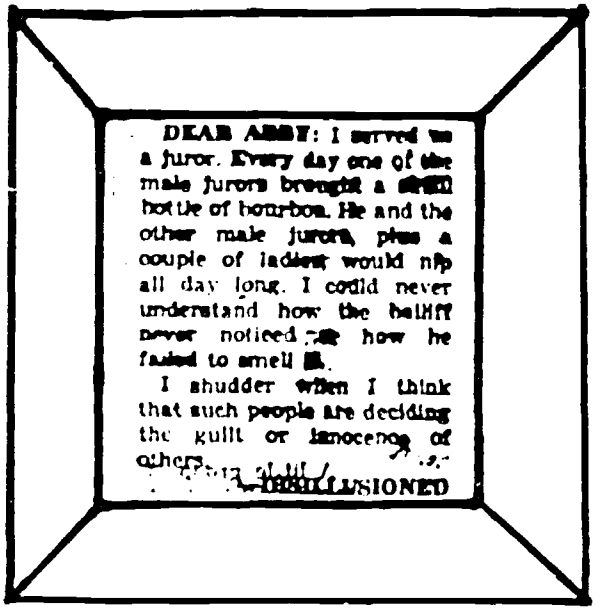
Rita James Simon, studied the process by which juries reach their verdict in insanity trials. For this, she set up a series of experimental trials, using over one thousand jurors chosen at random from the jury pools of Chicago, St. Louis, and Minneapolis. Ms. Simon hoped to determine how an actual jury deliberates in addition to finding any links between a juror's background and opinions, and his tendency to find a defendant Not Guilty for reason on Insanity (NGI).

Experimental jurors were drawn by lot from actual jury pools as part of their mandatory jury duty. They were then broken into individual juries. They were shown either one or two pre-recorded staged trials. The first was on a charge of breaking and entering and the second trial was based on a charge of incest. Before playing of the tape, the jurors were instructed by the judge to treat this trial with the same care and thought they would give in a real trial. Moreover they were further divided into groups for additional instruction upon which precise definition of "insanity" to use. Approximately one third of the juries were told to use the traditional McNaghten definition, one third were informed of the Durham version and the remainder were given no instruction.

TABLE 2 Percentage of NGI Dependent Upon Jury Instruction on Insanity

Type of Criminal Case	Control Group	McNaughten Instruction	Durham Instruction
Breaking & Entering	76%	59%	65%
Incest	34%	24%	36%

Table 2 The Percentage of Not Guilty by Reasons of Insanity Verdicts under various instructions from Simon's The Jury and the Defense of Insanity, 1967



The breaking and entering case dealt with a man with a long history of psyclotic disorders, institutional commitments, and attempted suicides. On the other hand, the defendant on the incest charge appeared to be a stable man with a steady job and high efficiency rating. The results seen in Table #2, show the differences in the number of NGI decisions reached by each group. (Note that those given no instruction stayed more in line with the decisions reached by the Durham group).

However Ms. Simon failed somewhat in trying to draw any parrallel between jurors' economic status, education, sympathies, and his propensity for accepting a NGI plea. Those people with a higher income, education, a more humanistic attitude toward mental illness, or a greater sexual permissiveness, were no more apt to decide NGI than a person to the contrary. These results remained even more rigid in the incest case, which seem to cross all lines of background and belief.

Perhaps the strongest asset of this book is its chapter showing the actual transcripts of these experimental juries. For anyone studying the process of jury deliberations, these are all too rare. It traces the deliberate period from the time of foreman selection, to the final verdict. At the same time, it offers many insights into the thinking of the individual jurers, as well as the large degree to which they can carefully study the evidence and testimony (contrary to popular belief).

[1] Under the McNaghten rule, the defendant is excused only if he did not know what he was doing, or did not know that he was doing wrong.

[2] In brief, the Durham rule states that a defendant is excused if his act was the product of a mental disease or defect.

Erlanger, H.S. "Jury research in America: It's past and future", Law and Society Review, 1970, Vol. 4, No. 3, 345-370

This thorough review of legal and scholarly research on juries is probably the best single source we have encountered, especially for an attorney seeking to understand jury competence, composition and personality effects. Excellent documentation and historical perspective marks a study which raises important questions for research and social change.

TABLE 1

Verdicts of Jury and Judge
(In Per Cent of All 3576 Trials)

JUDGE \ JURY	Acquits	Convicts	Hangs	Total Judge
Acquits	13.4	2.2	1.1	16.7
Convicts	10	62.0	4.4	83.3
Total jury	30.3	64.2	5.5	100.0%

▨ = Judge-Jury Agreement

Table 1 describes the magnitude of judge-jury disagreement in Kalven and Zeisel's The American Jury.

Kalven, Harry, Jr. and Zeisel, Hans
The American Jury, Chicago: The Univ. of Chicago Press (paperback edition), 1971, 559 pp., $5.95. - Steve Weg

The American Jury, a partial report of the findings of the Chicago Jury Project, is unique in both scale and method. The authors Harry Kalven, Jr., professor of law, and Hans Zeisel, sociologist and statistician, have demonstrated the fruitfulness of fusing the tools and perspectives of the legal and social science professions.

The subject matter is essentially the extent of agreement between judge and jury in establishing verdicts. Toward this end, 3,567 cases were sampled, for which 555 judges reported (before the jury came in) how they would have decided a case, were there no jury. Also reported was information concerning how the jury actually decided, and what factors the judges felt influenced the jury, if there was verdict disagreement.

While the authors touch upon many aspects of the judge-- jury decisional process, the essential findings are as follows: 1) There was judge-jury disagreement in approximately 25% of the cases (see table 1). Of the disagreements, one fifth were artifacts of the study, as these were "hung" juries, automatically producing disagreement with the judge, who lacks this option; 2) The jury was more lenient in 19% of the cases the judge was more lenient in 3% of the cases (i.e., the juries showed a net leniency of 16%). The generality of this finding is limited, however, in that the cases to which this 16% figure applies were selected for jury trial because they were expected to evoke pro-defendent sentiments; 3) That, with respect to leniency, the juries were not fundamentally "defendent- prone". Rather, the authors conclude that the jury is "non-rule minded;" 4) In only 9% of the cases was the judge critical of the jury's performance.

These findings are further qualified in terms of disagreement over conviction, charge, and/or penalty, and for disagreement patterns for specific crimes. Also, an in depth discussion is provided of specific reasons for judge-jury disagreements.

In terms of methodology, it is not surprising that there are many weaknesses, most of which would prove particularly irksome to the social scientist. Fundamentally, one has no way of knowing whether the judges who claimed they would have rendered a particular decision would actually have done so. Furthermore, in attributing motives to jurors, the judges have relied upon speculation, rather than upon direct knowledge of deliberation processes.

From a statistical point of view, we find that, since some judges reported many more cases than others, specific biases may not have been sufficiently counterbalanced; it must also be noted that the entire statistical treatment has been superficial, with specific analysis based on trends rather than upon more exact statistical inference. However, while methodological weaknesses go uncorrected, they are freely noted and discussed by the

(Continued on Page 9)

ARTICLES

Jury Selection: Social Psychologists in Action for the Defense
- Vincent Reilly

In the wake of the political trials of the past few years, a number of social psychologists have gotten involved in helping defense lawyers to pick jurors. In "Some Reflections on Social Science and the Law", Richard Christie explains how the defense lawyers in the Harriburg Conspiracy Trial of 1971 were able to use research material gathered and analyzed by a team of psychologists and anti-war activists. This information was gleaned from especially written questionaires and phoned interviews with registered voters in the Harrisburg area. The data were used in four important ways: 1) In their arguments for procedural points, the lawyers persuaded the judge to open the jury list to newly registered voters (thereby lowering the average age); 2) Previously unasked questions, e.g., religious affiliation, were found to be significant and used in voir dire examinations; 3) Defense lawyers were sensitized to question jurors with "anti-civil libertarian" attitudes more intensively; and 4) A sociologist consulted with defense lawyers prior to their decision to peremptorily challenges potential jurors with "Questionable" composite profiles.

The detailed narrative account of this study, "Jury Selection for the Harrisburg Conspiracy Trial" by Jay Shulman, etal., is an impressive (40p.) testimony to the effort produced by five social scientists and 45 volunteer researchers in finding a jury that would assume the defendent innocent until proven guilty beyond a reasonable doubt. Lawyers and psychologists on the case feel that the screening was proven worthwile by the 10 - 2 hung jury (for acquital) considering the notoriety of the Berrigan brothers in this conservative part of the country.

In their conclusion, the authors recommend that future researchers evaluate prospective jurors on: 1) Attitudes toward the defendents and their alleged crimes; 2) Assess juror ratings systematically with an eye for discrepancies, i.e. persons good on one, bad on other indicators; 3) Probe unsympathetic jurors conceptions of their role task to distinguish those who decide whether the prosecution has presented sufficient evidence or whether the defendents are guilty or innocent; 4) Probe the number of women and the issue of dominance in the composition of the jury; 5) Study behavioral cues, nonverbal behavior of prospective jurors; 6) Use defense lawyers foreknowledge of testimony to arise and other special characteristics of the trial to anticipate jurors reactions. The authors finish with a recommendation that federal trial rules be revised to include the right to an extended voir dire.

In "Psychology and the Angela Davis Jury", Wayne Sage outlines the professional concerns and methods of three black psychologists who aided the defense in jury selection. They began by assessing Angela's personality and anticipating her courtroom performance. After identifying her three personality traits most likely to influence the jurors, (i.e. her beauty, determination and friendliness) the psychologists set out to find, by direct courtroom observation, twelve unbiased jurors who would react to the defendent on a rational human level, rather than on the level of prejudicial emotions (Angela Davis being black, a communist, and a militant). Looking for consistant attitudes in the subtleties of human reaction, they hoped to spot hidden antipathies to the racial characteristics of the two defense lawyers, one black and one apparantly white, and more importantly, the

"Hey, you two, pay attention, please! I happen to be trying to sway you!"

jurors reactions to the DA in comparison.

The psychologists studied body language, the way jurors sat, gestured, made facial expressions and other non-verbal cues as well as the subtleties of inference in juror answers to voir dire questioning. The inter-juror relations were also evaluated before they combined their separate observations and chose twelve people who were accepted at the tactically appropriate moment.

The efforts of these three psychologists were rewarded indeed by the acquittal of Angela Davis. These relatively recent developments represent the values and commitment to the defendant by the psychologists involved. Psychologists have learned much about human behavior from such involvement and in return they have provided invaluable aid to the defendant. ■

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1. Christie, Richard, "Some reflections on social science and the law; The Harrisburg conspiracy trial as an example", Division 8 Newsletter, December 1972, The American Psychological Association - Edited by Marcia Guttentag, Dept. of Psychology and Social Relations, Harvard Univ., Cambridge, Mass. 02138
2. Schulman, Jay, etal., "Jury selection in the Harrisburg conspiracy trial", January 1973, pre-publication draft of article to appear soon in Psychology Today. For copies, write to Prof. Phillip Shaver, Dept. of Social Psychology, Columbia University, New York, NY
3. Sage, Wayne, "Psychology and the Angela Davis Jury", Human Behavior, 1973, Vol. 2, No. 1, 56-61

Papers Available from the Center-

CR-2 Buckhout, R., etal, "A Jury Without Peers". An overview of jurors and field study with real jurors, back up a set of recommendations for change (Mail Check for $1.00)

CR-3 Appierto, J., etal, "Decision Shifts Among Jurors" A progress report of interest mainly to researchers (Available free).

Jury Selection: Can Personality and Attitude Testing Help?

- Jay Golden

In recent years, psychologists in conjunction with lawyers, have been experimenting with the use of personality tests (and attitude measures) to see if they can predict the voting tendencies of jurors. Tests which measure authoritarianism, dogmatism, acquiescence, attitudes toward punishment, degree of interest in manipulating people, etc, have been administered to jurors or college students faced with a verdict decision in real or mock trials. As psychologists we are in the somewhat uncomfortable position of knowing that some of the findings of this research are very impressive, while recognizing that personality tests themselves have scientific and practical limitations. Nonetheless, proposals have been seriously advanced to give personality tests and attitude measures to prospective jurors; with the results being made available to the court, opposing attorneys and a consulting psychologist.[1]

As Vincent Reilly points out (p.5), prior knowledge of a potential juror's attitudes and beliefs has proven to be valuable to defense teams selecting jurors in criminal cases - valuable in the sense that the ultimate verdicts were pleasing to the defense. But, in assuming that test results would be available to both sides in an adversary process, we can speculate on whether the added information will add some value to the justice system or whether any benefits would be cancelled out by its availability to both sides.

The personality test is usually constructed around a basic "norm" for behavior - a standard for the "average person," around which "deviant" scores may be interpreted as indicating extreme forms of behavior to be avoided. For example, if we examine a test which measures "achievement motivation, the assumption behind the test is that the average person has or should have <u>some</u> level of motivation for achievement in a competitive society. Too low a score implies laziness; a very high score suggests excessive ambition. Of course, it is obvious that such a test has a built-in bias toward conventional middle class, white anglo-saxon, protestant values - within which achievement motivation is highly respected. Thus, a bias toward the WASP values is being used to define "normal." This criticism, often raised in connection with intelligence tests, lay at the basis of the <u>People vs Craig</u>[2] decision which banned the use of intelligence tests in selecting jurors.

Recent research on the comparison of personality tests scores vs juror behavior, has focussed on whether jurors are or can be impartial - especially in trials where a defendant is from a minority group or is poor. This basic question was raised in the <u>Witherspoon v. Illinois</u> (1968)[3,4] decision in which the defendant asked for a murder conviction to be set aside because (a) the jury was in favor of the death penalty,[5] (b) research shows that those favoring the death penalty were "authoritarian personalities,"[6] and (c) highly authoritarian personalities tend to be conviction prone.[7] The Supreme Court ruled only on factor (a) in reversing the conviction, citing the inconclusiveness of research on the other factors. Still, this decision opens the door for challenging the potential biasing effects of a juror's attitudes on his or her decision-making.

The reference to authoritarians,[8] refers to a long tradition of psychological research on a personality type characterized by rigidity, conservatism, dependence upon external authority and a reluctance to give up on what seems certain. The test which measures authoritarian attitudes is the California "F" scale. Several studies have shown that jurors with high scores on this test tend to render more guilty verdicts and to mandate harsher punishment.[9] However, one cannot simply ask a psychologist for an authoritarianism test off the shelf, since these tests are quite old,[10] and valid mainly in laboratory settings. One similar test called the Legal Attitudes Questionnair (LAQ), appears to be more directly usefull since it is short, is based on legal problems, and provides three measures of authoritarianism, equalitarianism and anti-authoritarianism.[11] Anti-Authoritarians identified by the LAQ scale have been shown to be excessively lenient in mock jury trials, while high authoritarians tend to be conviction prone. This test seems to be most highly favored as an accurate predictor by researchers.

We have been impressed by some of the following highlights of recent research:

● Mitchell and Byrne, 1971, in studying how high and low authoritarians responded to a criminal trial, found that the high authoritarians responded more to prejudicial testimony against the defendant and were not swayed by the judge's instructions to disregard. Low Authoritarians were more responsive to instructions.[12]

● Mitchell and Byrne, 1973, found that authoritarians were more responsive to the attractiveness and similarity of beliefs of the defendant than were egalitarian jurors.[13]

● Vidmar and Crinklaw report that high authoritarians were motivated to give longer sentences before parole to defendants of "bad" character.[14]

The value of personality tests must be determined from research in the real world with actual jurors before they can be considered for use. Tests which identify certain types, yield predictions which interact with other factors such as judicial instructions and defendant character. Thus the interpretation of test scores would be greatly aided by consulting psychologists skilled in the use of such tests. The use of test questions as a basis for a sharper voir dire is a much more likely prospect. More probing questions can aid in deciding on challenges and in sensitizing the juror to his prejudices; certainly more than the judge's instructions. We think that testing might be a valuable aid to the court in finding out about juror voting tendencies, but we feel that extraordinary steps must be taken to protect the privacy of the juror. Test data must never be released to any other agency or indidual.

leased to any other agency or individual.

If tests are used, there is no way that a certain score could be set to automatically disqualify a juror. Even a highly authoritarian juror cannot be deprived of his rights and duty to serve merely because of his personality, however disagreeable. The tests are not all that reliable yet, but even if they were, a jury of one's peers may well include some highly authoritarian people. Another complication arises from the fact that the personality test is notoriously fakeable by persons wishing to project the desired image. In one study it was found that selected jurors tended to get very high scores on tests which measure acquiescence and social approval seeking. That is, jurors may already be faking their voir dire responses in order to get on or to get off of jury duty.[15] Trial attorneys are aware that when jurors watch other jurors being questioned, they may adjust their answers when they take the stand in order to obtain the desired approval of the court.

We conclude with a call for more research - while expressing doubt about the official court use of personality tests in juror selection. We strongly recommend tests as a basis for structuring a more predictive voir dire. ■

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1. Emerson, C. David. Personality Tests For Prospective Jurors, Kentucky Law Journal, 1968, 56, 832-854.

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4. Rokeach, M. and Vidmar, N. Testimony Concerning Possible Jury Bias in a Black Panther Murder Trial, Journal of Applied Social Psychology, March, 1973.

5. Jurow, G. L. New Data on the Effect of a Death-Qualified Jury on the Guilt Determination Process, Harvard Law Review, 1971, 84, 567-611.

6. Boehm, V. R. Mr. Prejudice, Miss Sympathy and the Authoritarian Personality: An Application of Psychological Measuring Techniques to the Problem of Jury Bias. Wisconsin Law Review, 1968, 734-750.

7. Mitchell, H. E. and Byrne, D. The Defendant's Dilemma: Effects of Jurors' Attitudes and Authoritarianism on Judicial Decisions, Journal of Personality and Social Psychology, 1973, 25, (1), 125-129.

8. Adorno, T. et al. The Authoritarian Personality, New York: Harper, 1950.

9. Cf references 5,6, and 7. See also Epstein, R. Authoritarianism, Displaced Aggression and Social Status of the Target. Journal of Personality and Social Psychology. 1965, 2, pp. 585-589.

10. This warning also applies to the "dogmatism" scale presented by Rokeach, M. The Open and Closed Mind, New York: Basic Books, 1960.

(Continued on Page 10)

authors. Furthermore, the qualifications one must impose on the conclusions drawn do not overshadow the value arising from the broad scope of the data collected.

It is worth noting that the findings are scattered throughout the book, and this results in a certain lack of cohesiveness. It is for this reason that The American Jury was cited by the Supreme Court in the case of Spencer v. Texas, both in the majority opinion and in the dissent. It has also been cited by the Supreme Court in the cases of U.S. v. Jackson, Williams v. Florida, and Duncan v. Louisiana, all involving in various ways the right to jury trial itself.

The American Jury has its failings, but remains a unique source of information; the value of which remains to be fully tested.

Ginger, Ann Fagan (Ed.), Minimizing Racism in Jury Trials, California, National Lawyers Guild, 1969, 247 pp.

- Noreen Norton

The Kerner Commission Report stated that two-thirds of white Americans are racist. This racism may be objective (i.e. open expression of biased attitudes), or subjective (i.e. open expression of unbiased attitudes along with disapproval of black neighbors). This racism, in conjunction with the juror selection systems of many states (e.g. use of voter registration lists, where poor, the young and minorities are under-represented), produces juries which are pre-dominantly white, middle class, middle aged, male racists. Since a large proportion of criminal defendants are young minority group members, a jury of one's peers is a rarity in practice.

Charles Garry, defense attorney for Huey P. Newton, (charged with the murder of a policeman), was acutely aware of the difficulty of finding a jury of non-racist peers in Oakland, California. He set out to solve the problem by conducting an extensive voir dire, prepared with the help of social scientists . Garry's voir dire, reprinted in the book Minimizing Racism in Jury Trials, inperspective juror's prejudices, attitudes toward Black Panthers, feelings about the "Perry Mason syndrome," and the usual issues such as the police, prior convictions, etc. The thrust of the questions zeroed in on hidden racism - since the voir dire encourages people to say nice things about themselves - with the hope that the juror might confront his feelings more objectively if he were sensitized to them. Thus, even if a challenge for cause were to fail, the juror would be sensitized enough to minimize his own racism during deliberation.

Along with some sample voir dire transcripts, a list of key questions by category is presented in the book. Sociologist Robert Blauner, who observed the trial, presents an analysis of the voir dire which lasted for 2 weeks. Blauner affirms that the voir dire can be an opportunity to educate the jury on relevant matters in addition to the screening function. Minimizing Racism in Jury Trials is an attorney's handbook for selecting a jury and a vital aid to any citizen who seeks to be tried by a jury of his or her peers.

Copies of Minimizing Racism in Jury Trials may be obtained for $10.00 from: The Miekeljohn Library, Box 673, Berkeley, California, 94701. Also available from this address, is the text of the People vs Craig No. 41750, Superior Court, Alameda County, Calif., decision which eliminated the use of an intelligence test to select jurors, on the grounds that it led to the exclusion of minority and low income citizens from juries.

BELO HORIZONTE, Brazil (AP) — Judge Alfonso Saores Ferreira vowed he would never accept a woman juror for three reasons: Women shouldn't work outside the home, women are "emotionally fragile," and the courtroom's toilet is dirty.

Blind Justice?

"I could never forget that face," said the witness on the stand, and the jury, convinced, found the defendant guilty as charged. But was the witness correct? Perhaps not. Over the past eighty years psychologists have discovered that what a person hears, sees, and remembers depends on an extremely wide variety of factors, ranging from the

weather to the witness's frame of mind at the time. In spite of this knowledge, why does eyewitness testimony still enjoy such a prominent position in our legal system?

According to psychologist Robert Buckhout, part of the problem is that people are unaware of the research findings in this area. To help rectify this situation, Dr. Buckhout and his colleague, Dr. Eugene Johnson, recently organized the Center for Responsive Psychology at the Brooklyn College campus in New York. Hoping to act as a catalyst between the social sciences and law, the center will train students interested in legal careers or in related fields of psychology.

Although the center has been in existence for only a few months, it is already engaged in research on eyewitness reliability. The center's aim is the discovery of the conditions or procedures tending to bias a witness's testimony. It is already known, for example, that the layout of the mug shots and the type of photographs used can influence the identification made by a witness.

The center plans to explore the sociological impact of the recent Supreme Court ruling that a nine-member majority, instead of the former unanimous vote, is all that a jury needs in order to render a verdict of guilty.

In February the center will begin publishing a newsletter directed at lawyers. It will bring together information from all fields of social science pertinent to the practice of law. □

CENTER NOTES

The adjoining article was published in the Saturday Review of the Sciences, February, 1973. The newsletter mentioned is a little late, but... Subscriptions to SOCIAL ACTION AND THE LAW are available for $5.00 postpaid. Please send check to the Center for Responsive Psychology, Brooklyn College, Brooklyn, New York, 11210.

Eyewitness Identification -
A report entitled "Psychology and the Eyewitness" by Robert Buckhout, (No. CR-1) is available from the Center for $1.00. It covers 16 sources of unreliability identified in the human observer, an experiment on identification with photographs and the presentation of this type of expert testimony in court.

Call for Information -
For our future issues and our growing library, we are urgently requesting any published research articles, legal opinions, cases and experiences with eyewitness testimony, lie detectors, PSE, voice prints, experts in court, sentencing.

Personality Tests, Continued:

11. Ibid. Copies of the Legal Attitudes Questionnaire (LAQ) are available upon request from the Center For Responsive Psychology. We recommend further research with the LAQ, to check its reliability and validity.

12. Mitchell, H.E. & Byrne, D. "Minimizing the influence of irrelevant factors in the courtroom: The defendant's character, judge's instructions and authoritarianism. Unpublished paper, 1971.

13. Mitchell and Byrne, 1973, Op. Cit.

14. Vidmar, N. & Crinklaw, L.D. Retribution and utility as motives in sanctioning behavior. Paper presented to the Midwestern Psychological Assn., April, 1973.

15. Buckhout, R., et al, A Jury Without Peers, Report No. CR-2, Center for Responsive Psychology, 1973.

ACTION & CHANGE

We have scratched the surface of a very complex and vital issue in this newsletter and in an article available from the center. We are concerned that changes being proposed for the role of the jury in the U.S. judicial system, represent a misguided application of "efficiency" and a manifestation of a deep-seated mistrust of the ordinary citizen by court officers. The Court system, so marked by professionalism, is such a generally acknowledged failure, that it is absurd to focus on minimizing the role of the citizen juror, who participates here as he does in few other areas in society. We trust the citizen! It's as simple as that. Thus, our recommendations are aimed at expanding and enhancing the function of the petit jury, lest it become, like the grand jury, an impotent, temporary social club of passive, [illegible] followers who serve merely as a tool of the prosecution.

We call for no change in the size of juries in major criminal trials. So few cases go to a jury trial that the 12 person jury insures that reasonable doubt will be difficult to overcome unless the case is convincing to 12 people.

The unanimous verdict should be preserved The same reasons apply; efficiency simply means that the present 90% conviction rate would be increased.

The voir dire examinations should be lengthened rather than reduced; attorneys as well as judges should be allowed to ask questions. Research and experience point out the danger of and difficulty of identifying prejudicial jurors. The droning of complex philosophical ideas in the judge's instructions do not substitute for the confrontation by a skilled attorney who can sensitize if not challenge the prejudiced juror.

Make it possible for more people to be jurors. A jury of one's peers is presently a pure fantasy. We recommend higher pay for jurors; a national registry for jury service; the elimination of automatic exemptions from jury duty; the elimination of all competency tests for qualification; the use of bi-lingual court proceedings where appropriate; possibly allowing ex-felons to serve as jurors (benefitting both the ex-felon and the system); and the establishment of day care facilities for mothers of small children on jury duty.

Allow the jurors to participate actively. At present, the juror is a passive party to the trial, who is frequently not allowed to take notes or ask questions. We believe that jurors should be encouraged to speak up, to ask questions directly of witnesses, to take notes, to visit the scene of the crime and to function as an active finder of fact. We question the wisdom of pretending that the jury is not forming an opinion , since research clearly shows that most jurors do not change their initial vote during deliberation.

Train the jurors. Much wasted time during a juror's service could be spent in educating him or her on their duties, basic legal concepts, problems of evidence, elementary group dynamics (especially for the foreperson), and previous jury trials. We recommend that a series of films be created for use in such a program.

Use excess jurors for research programs. Cooperation by the court is vital if social scientists are ever to provide useful data based on the study of real jurors. By safeguarding the anonymity of participant jurors, many experiments could be performed with access to parallel juries.

Finally, we must state that we have found jurors to be very conscientious people who take their role seriously - more so perhaps than many court officers. We feel that justice will be better served by increasing the participation and function of the jury rather than minimizing it.

SOCIAL ACTION AND THE LAW
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